

UNITED STATES DEPARTMENT OF THE INTERIOR
National Park Service
Gateway National Recreation Area
Lease for Historic Land in Sandy Hook Unit



I. THIS LEASE is made and entered on **Month/Date/Year** by and between the United States Department of the Interior, acting through the National Park Service, an agency of the United States of America, hereinafter LESSOR, and

NAME:
ATTN:
ADDRESS:
E-MAIL:
TELEPHONE NUMBER
FAX NUMBER:

hereinafter, LESSEE/s¹

WITNESSETH: That the LESSOR and LESSEE, in consideration of their mutual promises set forth herein, agree to enter into a lease of certain real property located within the boundaries of Gateway National Recreation Area pursuant to 36 C.F.R. Part 18 and under the following terms and conditions:

1. Term of Lease:	Begins: XX/XX/XXXX
	Ends: XX/XX/XXXX or sooner in accordance with Paragraph 16.
	This Lease provides no right of renewal or extension to the LESSEE. ²
2. Description of Premises:	Historic Land located in Area XX as depicted in Section III below.
3. Use of the Premises³:	Food & Beverage or Beach Related Sale and Rental of Equipment and Sundries
4. Limitations on Use:	Use of Premises is limited to sale of food, beverage, or sale and rental of beach equipment and sundries/
5. Rent:	The LESSEE shall pay to the LESSOR rent in the following amounts: \$XXXXXXXXXX
6. Time & Manner of Payment:	Year 1: Half upon Lease execution, the remaining half within thirty days of September 30 for the first year this Lease is in effect. Years 2 - 5: Half on or before May 1 and the remaining half within thirty days of September 30 for the remainder of the Lease term.
7. Additional Rent:	Unanticipated costs incurred by the LESSOR as a result of the use and occupancy of the Premises shall be due and owing immediately upon conclusion of the event. Such costs are considered additional rent and may include, but are not limited to, emergency services, clean up, trash removal, and the costs of remedying damage to park resources.

8. Terms and Conditions. This Lease is subject to the Terms and Conditions stated above as well as Terms and Conditions contained in Sections II, III, IV, and V [including any Exhibits or Attachments thereto] of this Lease which are incorporated herein by reference.

IN WITNESS WHEREOF, the below identified official of the National Park Service, in the exercise of authority delegated from the Secretary of the Interior, on behalf of the United States, as LESSOR; and the LESSEE have executed this Lease on the date(s) set forth below.

LESSOR
THE NATIONAL PARK SERVICE

LESSEE

Jennifer T. Nersesian
Superintendent

¹ If more than one LESSEE is named in this Lease, each LESSEE shall be jointly and severally liable for performance of the obligations of this Lease.

² All areas must be cleaned and vacated by the expiration time indicated in the Lease.

³ Use of the premises is only authorized for the use stated herein. The stated use must be consistent with the park missions and values.

SECTION II. Park Specific Conditions:

1. **UTILITIES:** The Lessee at its sole expense shall make all arrangements with appropriate utility providers (including the Lessor where applicable) for all utilities furnished to the Premises, including, without limitation, gas, electricity, other power, water, cable, telephone and other communication services, sewage, and waste removal. Any utility service provided by Lessor will be subject to the Lessor's established policies and procedures for provision of utility services to third parties.
2. **PARKING:** The park is prohibited from waiving applicable parking fees. Parking fees in effect during fee collection hours remain in effect and cannot be waived or suspended under any authorized instrument. The National Park Service cannot guarantee parking availability or access into the park during peak times, weather events, or other circumstances beyond the control of park management. Your party may encounter difficulty entering or exiting the park. The LESSEE and LESSEE's guests shall comply with parking and traffic determinations made by NPS staff.

Parking on grass, curbs, or walkways is strictly prohibited and can result in issuance of a U.S. District Court Violation Notice: [26 CFR 1.10(a).

3. **SMOKING:** Smoking is prohibited in any interior space and can result in issuance of a U.S. District Court Violation Notice pursuant to 36 CFR 21.21(a). Discarding cigarettes or cigarette butts on the grounds may result in issuance of a U.S. District Court Violation Notice pursuant to 36 CFR 2.14(a)(1). Sanitation and refuse violations may result in issuance of a U.S. District Court Violation Notice pursuant to 36 CFR 2.14(a)(1). Proper outdoor receptacles must be provided in sufficient number to accommodate the needs of LESSEE and LESSEE's guests or invitees.
4. **NOISE LEVEL:** Sound, audio, or music is prohibited from being broadcast at a level exceeding 60 decibels beyond a distance of 50 feet from the perimeter of the Premises. The Unit Coordinator or his designee reserves the right to determine whether sound, audio, or music is broadcast or projected at reasonable level. LESSEE must comply with NPS determinations as to same. Noise violations may result in issuance of a U.S. District Court Violation Notice: 36 CFR 2.12 (Audio Disturbance) and / or 36 CFR 2.34 (a)(3) Disorderly Conduct.
5. **SIGNS:** Signs may not be hung or affixed to any park property absent written approval. The LESSEE is required to comply with the requirements of any signage plan approved by NPS. Lessees must display signs provided by NPS if any.
6. **GENERATORS:** Generators are prohibited unless specifically authorized in writing by the NPS, in which case a fire and safety inspection will be conducted by NPS Fire Chief or Designee. All generators (gasoline, propane powered stoves, and accessories, including fuel storage) are subject to inspection by NPS and must comply with applicable NFPA and NPS fire safety standards.
7. **HAZARDOUS MATERIAL:** Hazardous Materials (which are toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous, asbestos, formaldehyde, radon gas) are strictly prohibited. Other hazardous materials such as gasoline, diesel fuel or other petroleum hydrocarbons must be used in accordance with applicable Regulation.
8. **CLEAN UP/TRASH REMOVAL, and REPAIR:** LESSEE is responsible for trash collection and removal of all equipment and trash collected in connection with LESSEE's activities. The Leased Premises and adjacent grounds must be cleaned and left vacant and in broom clean condition upon expiration or termination of the lease. LESSEE is prohibited from disposing of its trash within the park. The Lessee shall pay as additional rent the costs of any trash removal, clean up, repair or restoration of the premises which the NPS is required to undertake in connection with Lessee's use and occupancy of premises.
9. **TRASH MANAGEMENT for PROTECTION OF NATURAL RESOURCES:** The Lessee shall take measures to ensure that debris resulting from use of the Leased Premises by the Lessee, Lessee's invitees or guests, is controlled and collected so as to prevent any resulting scattering of trash and debris in the adjacent grasslands and other natural resource areas.
10. **ALCOHOL:** Sale of Alcohol is prohibited.

SECTION III. Assigned Land and Improvements (Premises):

NPS will insert MAP depicting area

SECTION IV. Insurance Requirements:

The LESSEE, or LESSEE's Agent, Contractor or other Representative, as applicable, is required to submit proof of insurance to the NPS as a condition of this Lease. LESSEEs are prohibited from commencing permitted activities, or set up of activities, until the required proof of insurance has been submitted to and acknowledged by the NPS. The use of facilities authorized under the terms of this Lease may be terminated, delayed, or suspended for failure to provide satisfactory proof of insurance to the NPS. Applicable insurance requirements include:

- a) Property Insurance - An all risk or special form, including fire, vandalism and malicious mischief insurance. The amount of such insurance shall be the full insurable value of the Premises. All such policies shall specify that proceeds shall be payable whether or not any damaged or destroyed improvements are actually rebuilt. All such policies shall waive any requirement that a building or structure be replaced at its original site.
- b) General Liability Insurance Requirements – Commercial General Liability through one or more primary and umbrella liability policies against claims for bodily injury and property damage occurring on the Premises, the improvements thereon, or the streets, curbs or sidewalks adjoining the Premises, with such limits as may be required by the NPS, but in any event not less than One Million Dollars (\$1,000,000) per incident and Two Million Dollars (\$2,000,000) in the aggregate for the Premises.
- c) Other - All other insurance that the LESSEE should maintain to adequately protect the Premises.
- d) All insurance policies providing the required insurance as described herein shall name the United States of America as an additional insured.
- e) The Party authorized under this Lease assumes full risk and responsibility for any inadequacy of insurance coverage or any failure of insurers. No approval by the NPS of any insurer, or the terms or conditions of any policy, or any coverage or amount of insurance, or any deductible amount shall be construed as a representation by the NPS of the solvency of the insurer or the sufficiency of any policy or any coverage or amount of insurance or deductible.
- f) All insurance policies providing the required insurance as described herein shall provide that such policies shall not be cancelled, terminated or altered without thirty (30) days prior written notice to the NPS. The Party authorized under this Lease must provide to the NPS a certificate of insurance executed by a properly qualified representative of the insurance company evidencing that the required insurance coverage is in full force and effect on or before the commencement date of this Lease. The Party authorized under this Lease shall maintain all policies provided throughout the lease term/event and the Party authorized under this Lease shall renew such policies before the expiration of the term of the policy, as applicable.
- g) The Party authorized under this Lease assumes full risk and responsibility for any inadequacy of insurance coverage or any failure of insurers. No approval by the NPS of any insurer, or the terms or conditions of any policy, or any coverage or amount of insurance, or any deductible amount shall be construed as a representation by the NPS of the solvency of the insurer or the sufficiency of any policy or any coverage or amount of insurance or deductible.
- h) The LESSEE and LESSEE's Agents shall not do anything, or permit anything to be done, in or about the Premises or on adjacent or nearby property that would invalidate or be in conflict with the provisions of any fire or other insurance policies covering the Premises or result in a refusal by insurance companies of good standing to insure the Premises in the amounts required under this section.

The Lessor is not responsible for any theft of, or loss or damage to the Lessee's property under any circumstance.

SECTION V. General Terms and Conditions:

1. **In General.** This Lease is subject to all present and future laws, regulation, and policy which may be applicable to the LESSEE or to all or any portion of the Premises, or to the use, occupancy, possession, operation, maintenance, and repair of the Premises.
2. **Interests of Other Parties.** The LESSEE may not assign, sublease or encumber the Lease in whole or in part. Additionally, this Lease shall not, nor be deemed nor construed to, confer upon any person or entity, other than the parties hereto, any right or interest, including, without limiting the generality of the foregoing, any third party beneficiary status or any right to enforce any provision of this Lease. Further, The LESSEE warrants that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach or violation of this warranty, the LESSOR shall have the right to terminate this Lease.
3. **No Waiver.** No failure by the LESSOR to insist upon the strict performance of any of the terms and conditions of this Lease or to exercise any right or remedy upon a default, and no acceptance by the LESSOR of full or partial rent during the continuance of any default shall constitute a waiver of any default or of such terms and conditions. No terms and conditions of this Lease may be waived or modified except by a written instrument executed by the LESSOR. No waiver of any default shall affect or alter this Lease, but each and every term and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent default.
4. **NPS Right of Entry.** **This Lease excepts to the LESSOR the right, at reasonable times to enter upon the Premises as may be necessary** for the purposes of the administration of this Lease and/or the Park Area as determined by the LESSOR and to close the Premises when immediate danger to life or property is discovered. The LESSOR reserves the right to forcefully enter the leased premises in the event of danger or public health concerns. The LESSOR shall not be liable to Lessee for any damage resulting from same.
5. **Modifications to the Premises.** The LESSEE is prohibited from making physical modifications or improvements to the premises except as authorized in writing by the LESSOR. The LESSOR reserves the absolute right to accept or reject any modifications proposed by the LESSEE.
6. **Surrender of the Premises.** Upon expiration or termination of this Lease, the LESSEE shall surrender and vacate the Premises, remove LESSEE's personal property, and return the Premises, including its furniture, fixtures and equipment in as good an order and condition as that existing upon the commencement of this Lease.
7. **Holding Over.** This Lease shall end upon its expiration or termination and any holding over by the LESSEE or the acceptance by the LESSOR of any form of payment of rent or other charges after such date shall not constitute a renewal of this Lease or give the LESSEE any rights under this Lease or in the Premises.
8. **Costs, Fees, and Expenses.** LESSEE shall pay all costs, fees, expenses, and charges of every kind and nature resulting from its use of the Premises, including but not limited to additional rent, costs incurred by the park for services provided by NPS , emergency services, clean up, trash removal, and the costs to remedy damages to park resources. Such costs, fees, and expenses may include interest based on the current value of funds to the US Treasury. LESSEE shall incur additional costs, fees, or charges for failing to vacate Premises upon expiration of the LEASE or NPS authorized use of the Premises for any period of additional time. LESSEE shall be obligated to NPS for fees, costs, and charges in the amount of **\$250 for each day** LESSEE'S personal property remains on the Premises. In the event LESSEE has not removed personal property from the Premises within thirty (30) days of expiration or termination of the Lease, NPS shall have the right to dispose of LESSEE's personal property as NPS determines, in its sole discretion, and LESSEE shall be obligated for all costs incurred by NPS in connection therewith.
9. **Penalties.** The LESSOR may impose penalties for late payment to the extent authorized by Applicable Laws.
10. **Loss.** Under no circumstances shall LESSOR be responsible or obligated for any losses or liabilities of the LESSEE.

11. **Modification of the Lease.** This Lease constitutes the entire agreement between the LESSOR and LESSEE with respect to its subject matter and supersedes all prior offers, negotiations, oral and written. This Lease may not be amended or modified in any respect except by an instrument in writing signed by the LESSOR and LESSEE.
12. **Protection of Resources.** The LESSEE will take no action that will be detrimental to natural or cultural resources of the park or have any adverse impact on the environment.
13. **Time and Manner.** Activities taking place under this Lease shall be prohibited when the park is closed to the public, the Superintendent determines that such activities may not be compatible with authorized Events, or when the authorized activities are determined to be incompatible with NPS official activities or special events.
14. **Damage to Park Resources.** The proposed activity is authorized at the discretion of the park Superintendent. Authorization to conduct the activities addressed herein may be revoked, cancelled, or terminated at the discretion of the Superintendent upon 24 hours' notice, or without prior notice if damage to resources or facilities occurs or is threatened, notwithstanding any other term or condition of this authorization to the contrary.
15. **Termination by Lessor.** The LESSOR may terminate this lease if the LESSEE fails to keep and perform any of the terms and conditions of this Lease. If the LESSOR terminates this Lease as a result thereof, or if this Lease is terminated in accordance with Paragraphs 11, 12, 13, or 14, above, all of the rights of the LESSEE under this Lease and in the Premises shall terminate. The LESSEE hereby acknowledges the sovereign right of the LESSOR to cancel this Lease at any time to the extent provided by law.
16. **Termination by Lessee.** The LESSEE may voluntarily propose to surrender the Premises, and the LESSOR agrees to consider the Lessee's voluntary surrender of the Premises in the event of the following:
 - a. The Lessee no longer requires use of the facility in connection with the authorized use; and
 - b. The Lessee has provided not less than sixty (60) days written notice to the Lessor of the desire to terminate the lease, and
 - c. In the event the Lease is terminated under the terms of this Section 16, the Lessee is obligated for payment of Rent as identified in Section 5 until such time as the Lessee has vacated and surrendered the Premises, the Lessee shall be obligated to remove all personal property, and the Lessee shall be obligated to leave the Premises in as good a condition as they were on the Commencement Date. Any personal property remaining on the Premises beyond the termination date shall be considered "abandoned" and any costs associated with the removal or disposal of same shall be a surviving obligation to be borne by the Lessee. In the event that the Lease is terminated under the terms of this Section 16, the Lessee shall not be entitled to reimbursement for the cost of Improvements or any other Lessee costs associated with the Lease.
17. **Prohibition on Further Occupancy.** In the event of any termination, cancellation, or revocation by NPS, the LESSEE shall be prohibited from further occupancy or utilization of the facilities. All costs associated with clean up or damage to resources resulting in the termination or revocation of this authorization shall be borne by the LESSEE.
18. **Insurance.** At all times during the Lease Term and at the LESSEE's sole expense, it shall obtain and keep in force for the benefit of the LESSEE and LESSOR the insurance coverages set forth in Section IV (Insurance Requirements) of this Lease.
19. **Indemnity.** The LESSEE shall indemnify, defend, save and hold the United States of America, its employees, successors, agents and assigns, harmless from and against, and reimburse the United States of America for any and all claims, demands, damages, injuries, losses, penalties, fines, costs, liabilities, causes of action, judgments, and expenses, including without limitation expenses incurred in connection with or arising in any way out of this Lease, the use, occupancy or manner of use or occupancy of the Premises by the LESSEE or any other person or entity, the design, construction, maintenance, or condition of any improvements on the Premises, the condition of the Premises, and/or any accident or occurrence on the Premises from any cause whatsoever; provided, however, that the LESSEE shall not be liable to the extent that the damages, expenses, claims or suits result from the willful misconduct or negligence of the United States of America, or its employees, contractors, or agents; provided, further, that the United States of America shall be liable only to the extent such claims are covered by the Federal Tort Claims Act (28 USC §§ 2671 et seq.).
20. **Insurance and Indemnity.** The **Insurance and Indemnity** provisions contained herein shall survive the expiration or termination of this Lease.

21. **Notice.** Except as otherwise provided in this Lease, any notice, consent or other communication required or permitted under this Lease shall be in writing and shall be delivered by hand, sent by courier, sent by prepaid registered or certified mail with return receipt requested and addressed as appropriate to the following addresses (or to such other or further addresses as the parties may designate by notice given in accordance with this section):

If to the LESSOR:
Superintendent
Gateway National Recreation Area
210 New York Avenue
Staten Island, New York 10305

If to the LESSEE:
Name: _____
Address: _____
City, State, Zip: _____
E-mail: _____

Electronic Notification to the LESSOR is permitted though such notification will not have been deemed received until LESSOR issues a written response.

22. **Endorsement.** The LESSOR is not for any purpose a partner or joint venture participant of the LESSEE in the development or operation of the Premises or in any business conducted on the Premises. The LESSEE shall not publicize, or otherwise circulate, promotional or other material of any nature that states or implies endorsement of the LESSEE or its services or products by the LESSOR or any other governmental agency.
23. **Invalidity.** Invalidity of any one or more of the provisions of this Lease shall not affect any other provision of this Lease, and this Lease shall be construed as if the invalid provisions had not been contained in this Lease.
24. **Expenditures by LESSOR.** Nothing contained in this Lease shall be construed as binding the LESSOR to expend, in any fiscal year, any sum in excess of the appropriation made by Congress for that fiscal year or administratively allocated for the subject matter of this Lease, or to involve the LESSOR in any contract or other obligation for the future expenditure of money in excess of such appropriations.